July 12, 2004

Mr. Paul M. Blanch
135 Hyde Road
West Hartford, CT 06117

Dear Mr. Blanch:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC or the Commission) to your letter of May 5, 2004, regarding the NRC's planned engineering inspection at Vermont Yankee Nuclear Power Station (Vermont Yankee). The inspection process uses operating experience, risk assessment, and engineering analysis to select risk significant components and operator actions for review. This includes components and actions where margins may be impacted as a result of Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.'s (Entergy) proposed power uprate. The inspection team will consist of seven members including: a team leader, three contractors with design experience, and three experienced NRC inspectors. An observer from the State of Vermont will also accompany the team. To ensure the independence of the team, the contractors to be selected must have: (1) never been directly employed by Entergy or Vermont Yankee; (2) not performed contract work for Vermont Yankee or Entergy within the last two years; and (3) not performed inspections for the NRC at Vermont Yankee within the last two years. The NRC inspectors will not be current or former resident inspectors at Vermont Yankee or have participated in an engineering inspection at Vermont Yankee within the last two years.

You stated your belief that the plant must address compliance with today's regulatory criteria. It is important to note that we have no indications suggesting that Vermont Yankee does not meet all applicable NRC regulatory requirements. The NRC frequently updates its regulations as a result of improvements to technology and based on operating experience. When requirements are changed, the NRC evaluates the new requirements to determine whether a basis exists to impose the changes on existing licensees. For example, Vermont Yankee was designed and constructed based on the proposed General Design Criteria (GDC) published by the Atomic Energy Commission (AEC) in 1967. The final GDC were made a part of the AEC's regulations in 1971. Each plant licensed before the final GDC were formally adopted, including Vermont Yankee, was evaluated by the AEC at that time on a plant-specific basis, and was determined to be safe. The NRC determined that imposing the final GDC on plants with construction permits issued prior to 1971, would provide little or no safety benefit while requiring an extensive commitment of resources. In other cases, the NRC has imposed new regulations on nuclear facilities based on the substantial safety benefit that would be provided (e.g., environmental qualification of electrical equipment).

You referenced a memorandum from the NRC Office of General Counsel dated August 14, 1980, "Compliance with Commission Regulations and Further Licensing." This memorandum provides a legal opinion to the Commission on whether the NRC may issue a license without first finding compliance with all applicable NRC safety regulations. The memorandum concludes that a finding of compliance with all applicable safety regulations is generally a prerequisite to issuing an initial license. This determination does not apply to Entergy's current application under review for Vermont Yankee since Entergy is applying for a

power uprate and not an initial license. That is, Vermont Yankee is amending its license, not seeking a new license. The memorandum also notes that Section 110 of Public Law 96-295 directed the Commission to develop a comprehensive plan for the systematic safety evaluation of all currently operating facilities. This plan provides for the backfitting of currently operating plants for regulations that are determined to be of particular safety significance. As discussed in the previous paragraph, the NRC evaluates all new requirements to determine if previously licensed plants should be required to meet new regulations. Since the promulgation of 10 CFR 50.109, "Backfitting" in 1988, the staff has followed the requirements in this section of the regulations to guide its determination of when backfitting of new requests is appropriate and justified.

You stated that the inspection should contain complete vertical slice reviews and a review of the design-life of Vermont Yankee. Our engineering inspection will not be restricted to components from one or two safety systems, and will likely include components and human actions from multiple systems, both safety and non-safety related. Although the specific components and human actions have not yet been selected, they will be associated with the emergency core cooling systems, the containment system, power conversion systems, and auxiliary systems. The inspection will review risk-significant components and human actions, regardless of the plant system in which they reside. This includes components and actions where margins may be impacted as a result of Entergy's proposed power uprate. Although our prior approaches used vertical reviews of systems to assess a licensee's design and engineering activities, we believe that this new approach, focusing on risk significant components and human actions, will improve our assessment of the adequacy of Entergy's design and engineering activities at Vermont Yankee.

You stated your concerns regarding the participation of a representative of the State of Vermont on the NRC engineering inspection team. The role of the Vermont State representative on this team will be as an observer, not a member of the inspection team, consistent with our long standing agreement with the State of Vermont regarding state observation of NRC inspection activities. It is not NRC practice to make any recommendations or restrictions regarding the individual chosen to represent the State when observing NRC inspections.

You requested in your letter that you be considered for one of the independent contractor positions on the engineering inspection team. The NRC currently has a three-year contract for inspection support, that was competitively bid, with Beckman and Associates, Inc. For every inspection that requires outside expertise, we submit a Request for Proposal and Statement of Work to the contractor, who in turn recommends specific individuals that meet the educational background and experience qualifications that are required for each inspection. The NRC reviews these qualifications and any potential conflict of interest that may exist based on the contractor's previous employment. The NRC uses this process, as opposed to opening each inspection up to a competitive bid, because it is much more efficient and allows us to staff our inspection teams in a timely fashion. The NRC has been satisfied with the quality of inspectors that are obtained through this process.

The NRC does not permit members of the public to participate in our inspections for a variety of reasons including radiological and industrial safety concerns. As is our normal practice, we will document the results of this inspection in a report that will be publicly available. In addition, for this Vermont Yankee engineering inspection, we plan on conducting an exit meeting that will be

open for public observation to provide the public an additional opportunity to understand the inspection scope and our inspection findings.

Thank you for your interest in NRC activities. Additional information on the NRC's review of the proposed power uprate and engineering inspection are available on the NRC's website at www.nrc.gov/reactors/plant-specific-items/vermont-yankee-issues.html.

Sincerely,

/RA/

Ledyard B. Marsh, Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

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Sincerely,

/RA/

Ledyard B. Marsh, Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

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